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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/602,512	06/24/2003	Norman C. Witbeck	CREC-1	2189

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EXAMINER

AVILA, STEPHEN P

ART UNIT PAPER NUMBER

3617

DATE MAILED: 04/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/602,512

Applicant(s)

WITBECK, NORMAN C.

Examiner

Stephen Avila

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 23 and 24 is/are allowed.
- 6) ☒ Claim(s) 1,3,7-10,12-14,17 and 19-22 is/are rejected.
- 7) ☒ Claim(s) 2,4-6,11,15,16 and 18 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 102003.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 8, 12, and 20-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Frankel in view of Hardy (both cited by Applicant).

Frankel discloses the basic claimed structure including a marine craft 10 with an open hull portion at the stern of the craft (when the rear door is open (note Figure 1, for example), a cabin at the bow, a well deck (44, 90) hingedly connected (at 92) at one end thereof to the hull adjacent the open hull portion, and means for selectively raising and lowering (by ballasting; note column 5, last paragraph), and a stern gate (30, 54, 86) hingedly secured to the stern end, the well deck configured to receive and support cargo therein (note Figure 1, for example). Not disclosed by Frankel is a pair of spaced apart buoyant structures. Hardy teaches a pair of spaced apart buoyant structures 2 with a pair of propellers (column 2, lines 38-54). Hardy also discloses controlling a submarine (note column 3, line 65). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to form the hull of Frankel with a pair of spaced apart buoyant structures with a pair of propeller as taught by Hardy for stability and improved propulsion and to handle a submarine for improved use. Additionally, Frankel does not disclose making the hull of the particular claimed specifications and a Dolphin Class vehicle. It would have been an obvious choice of engineering design to make the hull of the specific claimed specification for improved

ease of use and improved performance, a person of ordinary skill in the art would be able to optimized the particular specification for optimal use and to handle a Dolphin Class vehicle for a greater range of use.

3. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Frankel in view of Hardy as applied to claim 1 above, and further in view of Schwemin et al (cited by Applicant). Frankel does not disclose a controlling cylinder. Schwemin et al teach a cylinder 35. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to form the device of Frankel with a cylinder as taught by Schwemin et al for low cost and ease of use.

4. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Frankel in view of Hardy as applied to claim 1 above, and further in view of Meyer (cited by Applicant). Frankel does not teach a flexible mount. Meyer teaches a flexible mount 16. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to form the device of Frankel with a flexible mount as taught by Meyer to protect the hull of the carried vessel.

5. Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Frankel in view of Hardy as applied to claim 1 above, and further in view of Schmidt et al. Frankel does not disclose a winch. Schmidt et al teaches a winch. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to form the device of Frankel with a winch to handle the carried vessel as taught by Schmidt et al.

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6. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Frankel in view of Hardy as applied to claim 1 above, and further in view of Sahr et al. Frankel does not disclose an aluminum or fiberglass hull. Sahr teaches the use of aluminum and fiberglass for marine craft (note column 1, lines 16-22). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to form the craft of Frankel to be fiberglass or aluminum as taught by Sahr for high strength, light weight and low cost.

7. Claims 14, 17, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Frankel in view of Hardy as applied to claim 1 above, and further in view of Cernier. Frankel does not disclose a jet drive. Cernier teaches a jet drive 24. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to form the craft of Frankel with a jet drive as taught by Cernier for simplicity and economy.

8. Claims 2, 4-6, 11, 15, 16, and 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. Claims 23 and 24 are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Avila whose telephone number is 703-308-2578. The examiner can normally be reached on Monday to Thursday from 8 AM to 4 PM (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Samuel J. Morano can be reached on 703-308-0230. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Stephen Avila
Primary Examiner
Art Unit 3617

Avila
4/14/04
